

**Before the
Federal Communications Commission
Washington, D. C. 20554**

In the Matter of:)
Public Safety and Homeland Security)
Bureau's Notice of Rule Making)
concerning 47CFR97.113)

Reference: WP 10-72

To the Commission:

OPPOSITION TO 47CFR97.113 Rule Change

SUBTITLE

The Fleecing of Amateur Radio

Chapter II

A time, long ago, young citizens of the United States of America grew up respecting the foundation of our nation, its laws, ideals and principles. Sadly, that no longer may be so. Only as we grow older do we become wiser and realize the enemy can be from within.

The citizens of the United States of America expect our government employees to apply due diligence and forthright honesty in following the laws of the land. Especially employees who have chosen the legal arena, as they swore to uphold, legally and morally, the law of the land as officers of the court. No one would expect these employees to subvert the law and its processes to achieve some unscrupulous purpose in an underhanded, deceitful way.

1 How does one justify commenting on the merits of a petition when they constrain the basis so as to present, not
2 only a one-sided view but a defective premise as well ? Rubber stamping a constant flow of illegal waivers and
3 usurping the Wireless Telecommunications Bureau's (WTB) authority over the Amateur service leaves one
4 wondering how this is a fair and impartial process. Deliberately and illegally stacking the deck is not only
5 deceitful, underhanded and unscrupulous but feloniously fraudulent. Stacking the deck is exactly what has been
6 happening by allowing all those illegal waivers and then using their premise as the basis for this rule making.

7
8 Clearly, it seems, they have already decided the matter and this petition, a mere formality, is but a farce, a
9 whitewash to give the illusion of due process. Yes, cooking the books was necessary to sustain this rule making.
10 In the private sector cooking the books would put the average citizen in prison. Just ask Bernie Madoff and a host
11 of others.

12 13 WHAT BROUGHT THIS ABOUT ?

14
15 The American Radio Relay League (ARRL) during the 1980's started it in their zeal to push for increased
16 membership under the guise of needing more Amateur operators to keep "our" frequencies. In a parallel effort
17 the ARRL started pushing public service as the need and reason for keeping "our" frequencies. *GEE, which*
18 *excuse is it ?* The ARRL also coined a new buzz phrase of "served agencies" in pushing their Amateur Radio
19 Emergency Service (ARES) activities and, more recently, touting a new cliché of "When all else fails." As well,
20 the ARRL has entered into MOU's (memorandum of understanding) with various organizations like the Red
21 Cross and local governments. An interesting and extremely arrogant action as they have NO right or legal basis
22 to obligate any Amateur operator to any conditions or to provide any service of any kind.

23
24 The ARRL and other's effort at recruiting instilled, in these new recruits, the attitude that "emergency
25 communication" (emcomm) was the ONLY reason Amateur radio exists. The initial reason a vast majority of
26 these new recruits joined was only their interest in emcomm. Yes, some have progressed beyond that point, but,
27 it seems, a majority have not.

1 It is no wonder these newbie converts see no problem in changing the very fabric of Amateur radio, because they
2 have no understanding of the purpose, history or International Treaties that set the stage for the Amateur radio
3 service. These newbie converts are truly a small minority in partnership with another small minority, the ARRL.
4 Yet, with help of wolves in sheep clothing, who go to great lengths to peddle their wares, like license study
5 materials, etc., this will slowly change.

6
7 The total U. S. Amateur population is around seven hundred thousand (700,000). A true number of “emcomm
8 recruits” are unknown. My estimation is less than five thousand (5000), about 0.7 percent. The **ARRL**
9 membership is less than 20 percent. Not all of the five thousand are members of the **ARRL** and when combined
10 are still less than 20 percent.

11
12 So, how is it this minority, with impunity, is going to supplant the majority and irrevocably change the face of the
13 Amateur service ? By disproportionately **selling** the “hobby” as an “emergency” service, which it is not, and
14 constantly repeating the lie until finally almost everyone believes the story. Also, having unscrupulous people
15 within the **FCC** willing to compromise their ethics does not hurt.

16
17 These emcomm recruits, the **ARRL**, **CQ** magazine, certain long time Amateurs and a number of commercial
18 entities are pushing to change the rules. Many of these new emcomm recruits are working in various emergency
19 response jobs like police, fire, search and rescue, hospitals, etc. Several issues have come about because of this
20 work affiliation:

- 21
22 **1)** Employers are beginning to want and require their employees to get Amateur licenses so they do not
23 have to depend upon volunteers;
- 24 **2)** The employer wants their licensed employees to participate for the employer’s benefit in these non
25 Amateur generated drills and tests forced on to the Amateur radio spectrum;
- 26 **3)** These employers see the lower cost of Amateur radio equipment as a bonus for their strained budgets;
- 27 **4)** Federal grants are available for government entities, including hospitals, to get funds for Amateur
28 radio equipment.

1 Number **two**, above, is illegal and NOT allowed as described under the current Part 97.113. The rest have no
2 meaning unless these “employers” can find a way to use Amateur radio for their own interests.

3
4 Some long time Amateur radio operators, like Gordon West (**WB6NOA**), make income by conducting classes and
5 selling books and training materials. Obviously, they are interested in having this rule making become a reality.
6 Gordon is also a signatory to a rule request to change 97.113, currently before the **FCC**, and incorporated into
7 this WP 10-72 rule making. One of his signatory partners, **N5FDL**, a writer, also does similar training services.
8 Of course, publications are also the bread and butter of the **ARRL**. After all, they are a publishing company, not
9 a simple Amateur radio club. If one thought otherwise then they caught them in the ruse.

10
11 If all of the above is too hard to believe or swallow then go to <http://n5fdl.com/> and do a little looking around and
12 some reading. This WEB Site will show the flavor of what I am talking about regarding the emcomm
13 environment. Likewise is the new **ARRL** Web site (<http://www.arrl.org/>) layout that is nothing more then an
14 expensive, polished version of the same thing.

15
16 Generally, three types of **so-called** volunteer people are associated with the phenomenon displayed at the above
17 WEB sites. The first is the obvious “**whacker**” type fascinated with flashing lights, badges, shiny reflective vests
18 and the presumed power associated with these items. These people are seriously lacking in maturity or wisdom,
19 in all likelihood both and are dangerous to themselves and those around them.

20
21 The second type is a person who generally feels nonessential and under appreciated. While lacking the power to
22 influence their surroundings, they are looking for a place to belong where they will seem important in some way.
23 Nothing wrong with that unless they are unable to keep a proper perspective. Keeping a proper perspective is
24 usually elusive, so they grasp at a lifeline even if it is missing a life preserver.

25
26 The third type is not really a “volunteer,” but a new category or class of individual who becomes licensed solely
27 in the furtherance of their employer’s interests. This person, typically, has **ZERO** interest in any other aspect of
28 the Amateur radio experience. Their employers, often, financially compensate these people in preparation for

1 testing and getting licensed.

2 3 **SO, WHAT IS THE LEGAL BASIS ?** 4

5 In the early part of the 1900's the world's governments recognized that radio communications extended beyond
6 political boundaries. Eventually, the International Telecommunication Union (**ITU**) was born to be the arbiter for
7 Worldwide usage of the radio medium. **ITU** members' nations devised a treaty to preserve order and provide a
8 technical and operational process agreeable to all. The United States of America signed onto this treaty agreeing
9 to follow its constructs and this includes the Amateur service. The treaty details the why, who, what, when and
10 where of the Amateur service. Although I was not alive at those original moments of the **ITU**, I dare suspect that
11 the United States, as a member and a major world power, had a large hand in how it turned out, including the
12 language of the treaty and all of its sub parts.

13
14 The true definition and purpose of whom and what Amateur radio is, is first found in **ITU** Radio Regulations in
15 *Article I Section III. Radio services* and is as follows: *1.56 amateur service: A radiocommunication service for*
16 *the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, by*
17 *duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest.*

18
19 The United States Code (**U.S.C.**) essentially codified the same language: *47USC153(2) Amateur station: "The*
20 *term ``amateur station'' means a radio station operated by a duly authorized person interested in radio technique*
21 *solely with a personal aim and without pecuniary interest."* The **U.S.C.** is the codified result of Public Law from
22 Congressional action, here, the 1934 Communications Act (and its subsequent amendments). The **U.S.C.** is the
23 legal basis for and exercises authority over the Code of Federal Regulations (**CFR**).

24
25 The **FCC**'s primary definition is *47CFR2.1(c) The following terms and definitions are issued: Amateur Service. A*
26 *radiocommunication service for the purpose of self-training, intercommunication and technical investigations*
27 *carried out by amateurs, that is, by duly authorized persons interested in radio technique solely with a personal*
28 *aim and without pecuniary interest.*

Written again in *47CFR97.3(a)(4) Amateur service. A radiocommunication service for the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest.*

We should recognize three principle points. First, is the “**NO**” pecuniary interest aspect. Second, is the fact that the phrase “. . . *solely with a personal aim* . . .” means that it is a voluntary function and therefore no requirement or obligation exists for the licensee to act at anyone’s direction except his own; save for following the rules under **47CFR97**.

Third, no language is present regarding the singular term “emergency.” Unlike a person in a job position where they contractually agreed to perform as a responder in emergency circumstances (i.e., police / fire / doctor / nurse / ambulance personnel, etc.), the Amateur licensee’s operation is a voluntary function. No contractual obligation exists to perform for anyone anytime under any circumstances. This is why it is a hobby as opposed to a job or profession.

No language in the **ITU** Amateur radio regulations exists concerning any requirement for an Amateur licensee to provide emergency communications. The Communications Act of 1934 and the **U.S.C.** also has no requirement or places any obligation upon an Amateur licensee to provide emergency communications. Notwithstanding **47CFR97.401** (the Alaska special channel) or **47CFR97.407** (the very special RACES provision) the only place where a **remark**, not a statutory requirement, with respect to Amateur radio and the term “emergency” is used is in the **CFR** wholly contained within **47CFR97.1(a)**. It is my understanding that the current language of **47CFR97.1** was added around 1951 or 1952. In any case, again, no such language exists in the **ITU**, the 1934 Communications Act, or the **U.S.C.**

Many people mistakenly cite **47CFR97.1(a)** as a basis for claiming that Amateur radio has an emergency communications requirement or obligation. **This is false !**

47CFR97.1(a) states: *Recognition and enhancement of the value of the amateur service to the public as a*

1 *voluntary noncommercial communication service, particularly with respect to providing emergency*
2 *communications.* **47CFR97.1** is a preamble, not a statutory requirement, illustrating the purpose and intent of the
3 Amateur service. All parts of **47CFR97.1** lack, specifically, the command to act, that is, it does not give anyone
4 enforceable rights because it is too vague. Other more specific statutes in **47CFR97** govern the Amateur service
5 over shadowing any assumptive prominence in **47CFR97.1**.

6
7 In **47CFR97.1(a)**, the phrase “. . . *particularly with respect to providing emergency communications*” is a
8 statement amplifying “. . . *the value . . .*” of the “. . . *voluntary noncommercial communication service . . .*”
9 Effectively, all it does is give *recognition* to the Amateur’s unselfish donation of time, equipment, and tireless
10 effort to help “**voluntarily**” in times of “true” need.

11
12 It is human nature to want to help within one’s ability. Nonetheless, it becomes **abusive** when those efforts are so
13 self consuming as to change the very fabric of a volunteer effort into a compulsory requirement. This is what is
14 afoot with the several actions being tendered before the **FCC** by **Gordon West’s** group, **CQ** magazine, the
15 **ARRL** and, now, the Public Safety and Homeland Security Bureau’s (**PSHSB**) rule making WP 10-72.

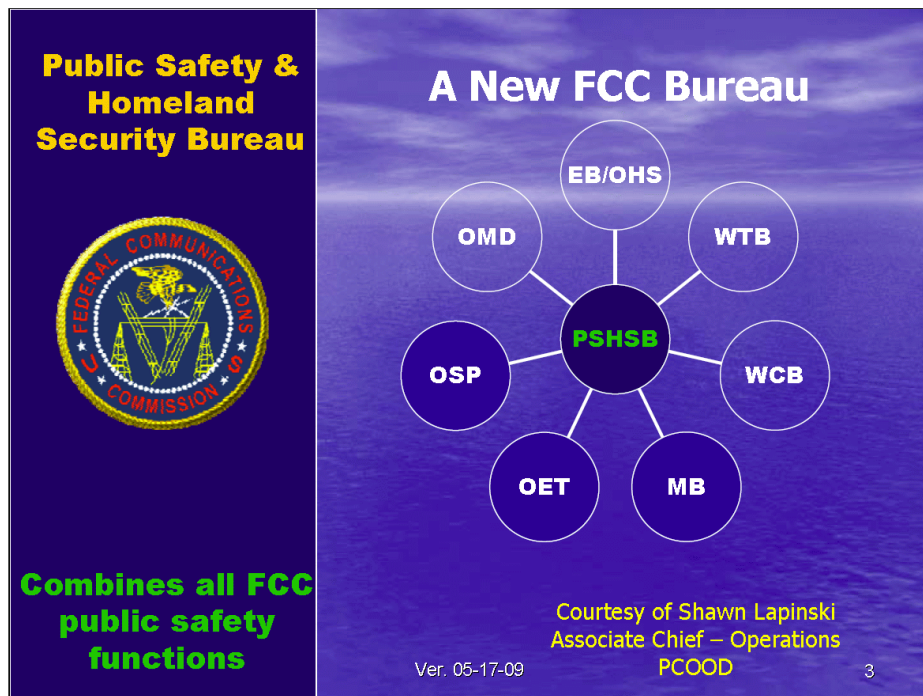
17 **THE FCC’s 9/11 MADNESS AND SUBVERSION**

18
19 The **FCC** was established by the Communications Act of 1934 as an independent United States government
20 agency. Taken from the 1934 Communications ACT, the term “independent” has the following meaning:

21 *Title 1, section 4(b) Each member of the Commission shall be a citizen of the United States. No member of the*
22 *Commission or person in its employ shall be financially interested in the manufacture or sale of radio apparatus or of*
23 *apparatus for wire or radio communication; in communication by wire or radio or in radio transmission of energy; in*
24 *any company furnishing services or such apparatus to any company engaged in communication by wire or radio or to*
25 *any company manufacturing or selling apparatus used for communication by wire or radio; or in any company*
26 *owning stocks, bonds, or other securities of any such company; nor be in the employ of or hold any official relation*
27 *to any person subject to any of the provisions of this Act, nor own stocks, bonds, or other securities of any*
28 *corporation subject to any of the provisions of this Act. Such commissioners shall not engage in any other business,*

vocation, or employment. Not more than four commissioners shall be members of the same political party.

The creation of the **PSHSB** is an interesting phenomenon. According to the **FCC**'s own organizational chart, they are but one **coequal** bureau with no special authority over any other bureau. The reality is the **PSHSB** is an internal go-between with the Federal Government Administrative Branch's Homeland Security Department. A **MOLE**, if you will, that is nothing more than a cancer eroding the independent nature of the **FCC**. In studying the **PSHSB**'s own Web pages, they seem innocuous enough until I start digging deeper into the provided material wherein I observed they have a much different view of themselves.



Clearly Shawn Lapinski of the **PSHSB**, a licensed Amateur radio operator (N3GQ), seemingly feels the **PSHSB** is the central focus of the **FCC**. Indeed, the forced intertwined action of the **PSHSB** with all the other bureaus certainly supports the above depiction. So is the case regarding the Amateur radio service, normally under **WTB** jurisdiction. The Rule Making, WP 10-72, is the product of the **PSHSB** (see paragraph 17 of WP 10-72).

The **PSHSB**'s primary objective is to support whatever efforts are necessary to satisfy the needs of various government "agencies" regarding emergency communications. However, this support includes other non government entities like, for example, all forms of health care including hospitals. The **PSHSB**'s only interest in

1 the Amateur radio service is how it will serve their needs. The **PSHSB** has no regard for treaties or the law or
2 subverting them for their purposes.

3 4 **THE SLIGHT OF HAND**

5
6 **PSHSB** has constructed WP 10-72 rule making language using weasel phrases leaving open the possibility for
7 unchecked abuses. The portion in question is the new proposed [47CFR97.113\(3\)\(i\)](#) which says “*A control station*
8 *operator may participate on behalf of an employer in a government-sponsored emergency preparedness or disaster*
9 *readiness test or drill, limited to the duration and scope of such test or drill, and operational testing immediately*
10 *prior to such test or drill.*” What is a “control station operator ?” No such definition exists. The FCC has
11 defined the terms “Control operator” and “control point.” Amateur radio does not have a “control station.” No
12 definition of “. . . *scope of such drill or test . . .*” exists either ? The big weasel phrase is “. . . *and operational*
13 *testing immediately prior to such test or drill.*” If a test or drill is going to run, why the additional testing before
14 the main test or drill ? The main test or drill is the “operational” function that is evaluating the effectiveness.
15 Likewise, “. . . *immediately prior to . . .*” is ambiguous as it is totally subjective.

16
17 **What, exactly, is the purpose of repeating, essentially, the same phrase twice ?** Well, if a limitation needs to
18 be stated but is unwanted, then repeating the phrase a second time, differently, without the limitation makes sense.
19 The added confusion allows for many interpretations to accomplish the slight of hand.

20
21 One of many problems with (3)(i) are no specified limits, like those found in **47CFR97.407(e)(4)**, to prevent
22 abuse. As it stands, nothing prevents constant tests or drills or limits the message content or duration. Plenty of
23 evidence exists showing these non-federal government and hospital entities violated the rules before this proposed
24 rule making, how does this wording provide any assurance that such violations are not going to continue ?
25 Obviously the wording was carefully chosen to permit the **FCC** to excuse just about any abuse that will occur by
26 having no clear specific language in the **new** [47CFR97.113\(3\)\(i\)](#).

IN CONCLUSION

If the concern here is truly real and the current systems are so faulty then serious management problems exist at all levels, both private and government. Why is not the Commission using due diligence in resolving these matters properly and lawfully ? Instead, the FCC has turned into a paper mill designed to keep government paper pushers in a job. Why is the Commission wasting resources on yet another Bureau, the **PSHSB** to be exact, whose function is nothing more than a political power building pyramid ? Besides, it seems that the **PSHSB**'s functional purpose is a duplication of efforts by the Government's Homeland Security Department. The Homeland Security Department can submit "rule making" requests to the **FCC** just like everyone else.

Why not, preferably, hire some real engineers instead of wasting resources on such follies like the **PSHSB** ? Such education and expertise are sorely missing in the FCC. It seems all that is left are lawyers and paper pushers who have no understanding of the fundamental sciences, amongst other issues.

This proposal, besides being rigged, is not only a bad idea but violates the International treaty agreed to by the United States Congress. It violates the 1934 Communication Act (since amended) and that Act's codification in the **U.S.C.** The **FCC**'s **PSHSB** and **WTB** have overstepped and abused their presumed delegated authority.

Please find appended an unresolved motion for a Protective order and review of delegated authority I submitted in November 2009. It discusses the premise used for this improper rule making WP 10-72.

Truly, in the likelihood that my position is unclear, unequivocally, I oppose this rule making.

WB6BNQ

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1 **Before the**
2 **Federal Communications Commission**
3 **Washington, D. C. 20554**
4

5 In the Matter of:)
6 Commission comments concerning the)
7 use of the "waiver" process for a) Reference: DA 09-2259
8 Government entity's usage of Amateur) DA 09-2302
9 radio under 47CFR97 as stated via a) DA 09-2420
10 public notice # DA-2259.)
11

12 To the Commission:

13 **MOTION FOR PROTECTIVE OR CLARIFYING ORDER**

14 **and**

15 **Application for review of action taken pursuant to delegated authority**
16

17 47CFR97 already had the necessary rules permitting the Amateur service to pass
18 messages from a "third" party to another "third" party, including so called
19 "emergency" communication, during "normal" Amateur radio use. The only
20 restriction is it cannot be done for pecuniary reasons. This includes a
21 licensed Amateur who is an employee operating a station "on behalf of" his
22 employer.
23

24 Granting of waivers represents an illegal and improper attempt to circumvent
25 the plain requirements of 47CFR97 because it has the effect of reading
26 47CFR97.113(a)(2) and (a)(3) completely out of the Rules. To the extent that
27 the amateur service does provide "**structured**" emergency communications, it is
28 supposed to be done within the framework of RACES.

1 A prime requirement of regulatory interpretation is the Commission must read
2 the regulation in question as a whole and in context. The purpose of the
3 regulation is to accomplish a desired result. The Commission can only
4 accomplish this if it has read and construed the regulation as a whole and not
5 in parts; otherwise the Commission's intention, as ordered after public rule
6 making, will not be effectuated.

7
8 The true crux of the matter is twofold. First, the Amateurs, themselves, are
9 disproportionately **selling** the "hobby" as an "emergency" service, which it is
10 not. Second, the "served" agencies want their employees in charge as actual
11 licensed operators, but this violates the remunerative prohibitions of
12 **47CFR113(a)(2)** as follows: "**Communications for hire or for material**
13 **compensation, direct or indirect, paid or promised, except as otherwise**
14 **provided in these rules;**" and **47CFR97.113(a)(3)** which provides specifically as
15 follows: "**Communications in which the station licensee or control operator has**
16 **a pecuniary interest, including communications on behalf of an employer.**"

17 18 ABOUT THOSE WAIVERS

19
20 Though **47CFR1.3** provides for a "waiver" process, it does so with a "good
21 cause" requirement as specified in **47CFR1.925**. In the public notice, DA 09-
22 2259 (Released: October 20, 2009), Delegated authority, while correctly
23 clarifying a particular aspect of **47CFR97**, inadvertently left the impression
24 that a waiver is a simple, readily usable, easy and routine process with which
25 to circumvent the current rules under **47CFR97**.

26
27 Clearly, if "good cause" is required then it is not a simple, easy, or routine
28 process and the Commission never intended it to be a readily usable method for

1 circumventing the rules. Five possible grounds for "Good cause" are set forth
2 in 47CFR1.925. They are: 47CFR1.925(3)(i) - **public interest is frustrated;**
3 47CFR1.925(3)(ii) - **inequitable application, unduly burdensome, contrary to**
4 **the public interest, or no reasonable alternative.**

5
6 The reason no "good cause" exists for the issuance of a waiver is that none of
7 the requirements exist for a finding of "good cause" as defined in
8 47CFR1.925(3)(i) and 47CFR1.925(3)(ii), and it cannot be inequitable if
9 47CFR97.113(a)(3) specifically prohibits it. By requesting a waiver the
10 applicants admit they are doing it with remuneration from and "on behalf of"
11 their employer and that is precisely why they are requesting a waiver.
12 47CFR97.113(a)(3) is very precise regarding remuneration and employment.

13 14 **WHAT PROMPTED THE PUBLIC NOTICE DA 09-2259 ?**

15
16 A major reason the "public notice" came about is due to inquiries about Amateur
17 operators, whom hospitals employed, who operated the hospital's Amateur radio
18 "emergency" net operations. A popular Amateur radio Internet WEB site forum
19 questioned this practice. Then some Commission staff comments concerning this
20 subject became a major discussion on said WEB site, and other venues, which
21 created the need for a cohesive Commission statement in DA 09-2259.

22
23 While DA 09-2259 refers to "government-sponsored emergency preparedness and
24 disaster drills," many Amateur operations deal with hospitals and other
25 entities whom a government function has not necessarily sponsored. These
26 hospitals are a for-profit operation and, it seems, that many are wanting to
27 require some of their staff become licensed Amateur radio operators because
28 they then do not have to depend upon volunteers. The same thing is happening

1 with government functions like police, fire, rescue operations and
2 particularly with State level Emergency Operations.

3
4 These government entities see some benefit in using Amateur radio. Amateur
5 radio equipment is cheaper than its commercial equivalent. Licensing is very
6 easy and spectrum usage is not a problem in contrast to the issues surrounding
7 47CFR90 frequency assignments.

8
9 However, the **real problem** is due to the constant promotion, by the American
10 Radio Relay League, other Amateur organizations and Amateurs themselves, to
11 sell the virtues of Amateur radio as providing "emergency" communications.
12 The "served agencies" would hardly pay attention to the Amateur service save
13 for the constant, misplaced and disproportionate promotion. This wrong headed
14 promotion of the Amateur service as an emergency communication medium raises
15 the question of whether, in the absence of such promotion, the served agencies
16 would even consider using the Amateur service in such a capacity in the first
17 instance. It appears that the serviced agencies' desire to use Amateurs as
18 emergency communication personnel is due partially to being hounded and partly
19 to being "politically correct" rather than that they truly need the additional
20 help. Lately the "politically correct" angle has major benefits because the
21 U.S. Department of Homeland Security is now providing government grant money
22 for Amateur applications.

23 24 **WHAT IS AMATEUR RADIO ?** 25

26 47CFR97.3(4) clearly states the true purpose of Amateur service as "A
27 **radiocommunication service for the purpose of self-training, intercommunication and technical**
28 **investigations carried out by amateurs, that is, duly authorized persons interested in radio**

1 *technique solely with a personal aim and without pecuniary interest.*” This definition
2 agrees with the International Telecommunications Union treaty and the public
3 law contained in the United States Code. It should be noted that the term
4 “emergency” appears nowhere within that definition.

5
6 Amateur radio is a voluntary service whose fundamental purpose is five
7 principles listed in 47CFR97.1. However, 47CFR97.1 is just a general
8 statement of the basis and purpose of Amateur radio, unlike the *specific*
9 requirements imposed by other sections of the Rules. Amateur radio operators,
10 who generally have no legal training, tend to quote the generalized statements
11 in 47CFR97.1 as though they had more force and effect than the specific
12 statements contained elsewhere in the Rules. This is incorrect, and the
13 Commission should clarify these Amateurs’ incorrect understanding of Part 97.

14
15 Title 47 of the CFR, in §97.3, contains the specific statement of the purpose
16 of the Amateur radio service. Nowhere within any of the definitions contained
17 in 47CFR97.3 is the term “emergency” used, defined or explained. The ability
18 to provide “emergency” communications, while salutary, is not a proper
19 purpose of the Amateur service. Other radio services have that purpose
20 instead. The reason emergency communications is not a specified purpose of
21 Amateur radio is because it is a voluntary service. Amateur radio has no
22 binding contractual obligation to provide any “emergency,” or for that matter,
23 any third party traffic of any kind.

24
25 The only statutory language permitting the use of a 47CFR97 station for other
26 than its designated purpose is 47CFR97.5(b)(4) and 47CFR97.407, called RACES.
27 The purpose of RACES is to allow a government entity to use a cadre of trained
28 radio operators in time of “public” peril be it local, regional, or a national

1 event, especially if the President of the United States invokes the "WAR
2 POWERS ACT." However, it appears that although the Rules provide for the
3 issuance and renewal of the RACES licenses, the Commission no longer issues or
4 renews RACES licenses.

5 6 **THE SERVED AGENCIES**

7
8 Promoting a waiver to circumvent the rules as common practice is illegal and
9 sends the message that the Rules are meaningless. Allowing waivers is not
10 going to solve the "perceived" problem; "perceived" because no real problem
11 exists.

12
13 The "perceived" problem is the Agency wanting their management personnel
14 licensed so they can be in control of the Amateur communications. This is
15 akin to saying the Ford Motor Company's upper management need to be auto
16 mechanics to manage the company properly. This is just simply silly and
17 clearly not so !

18
19 Having a licensed employee operating is not going to fix poor management
20 problems. More likely, it is the employed Amateur who wants to be part of the
21 action and is driving the circumstances; thus, putting his "agency" in harms
22 way of **47CFR113**.

23 24 **WHAT IS WRONG ?**

25
26 The wording, intent and meaning of **47CFR97** are, generally, quite clear, yet
27 many Amateurs lack the sophistication to understand its contents. This is
28 partly due to the dramatic reduction in the requirements for licensing. The

1 Commission has rewritten the rules several times trying to make them clearer
2 and in so doing have also broadened the scope of permissible operations.
3 Perhaps they have been too permissive ? The old adage of "give them an inch
4 and they will take a mile" appropriately describe those who are so adamant
5 about "emergency" communications.

6
7 Over the last twenty-five some odd years, the American Radio Relay League
8 (ARRL) has mounted a major effort to push the "emergency" aspect of the
9 Amateur radio service. This "emergency" spin also includes promoting an
10 insane amount of NON "emergency" functions like parades and numerous civic
11 events. The stated reason is "it is the primary reason for the Amateur
12 service and the justification for keeping the spectrum allocations currently
13 allotted to the service." That statement may have some truth regarding those
14 allocations where the signal propagation does not exceed our political
15 borders. This is not so on those allocations where signals exceed our
16 political boundaries due to treaty agreements binding the United States as a
17 member of the International Telecommunications Union.

18
19 This ARRL focus brought new entrants to Amateur radio who have little, or no
20 interest in contributing to the advancement of the radio art. Instead, these
21 new entrants are intimately and solely aimed at providing volunteer
22 communications to "served agencies" and other non government entities.
23 Unfortunately, the ARRL's indoctrination was so thorough that these new
24 entrants think "emergency" communication is the primary objective of the
25 Amateur service, contrary to the facts.

26
27 **SO WHAT IS WRONG ?** Again, the real problem is due to the constant,
28 disproportionate promotion, by ill-advised Amateurs, to sell the virtues of

1 Amateur radio providing "emergency" communications, even if it violates
2 47CFR113. Pecuniary interest should apply to the U.S. Department of Homeland
3 Security grant money for Amateur applications. Particularly so if it is an
4 Amateur or group of Amateurs independently receiving such a grant instead of a
5 government entity.

6
7 **THE PROTECTIVE ORDER REQUEST**
8 **and Application for review**
9

10 The term "public" as used in Title 47 refers to the greater populace, that is,
11 all the citizens of the United States of America. Thus terms attached to
12 "public" like frustration, inequities, burdensome, and contrary carry the same
13 meaning. Unfortunately, most of the Amateur's involved in the "emergency"
14 game fail to understand such intricacies and see themselves as the "public"
15 being frustrated.

16
17 So far, to my knowledge, the Commission, through delegated authority, has
18 approved two waivers. DA 09-2302 with five employees and DA 09-2420 with a
19 whopping eleven employees.

20
21 Regarding the above waivers, I am unable to see where any public frustrations
22 exist, except for not wanting to follow the rules. No inequities exist except
23 the burdensome requirement of following the rules. Likewise, no circumstances
24 exist that are contrary to the public interest. Plenty of avenues exist with
25 other sections of Title 47 providing reasonable alternatives, including
26 learning how to properly manage.

27
28 Specifically regarding DA 09-2302 and DA 09-2420, I would like to know exactly

1 how the "public interest" (47CFR1.925(3)(i)) was frustrated because these
2 employees could not use Amateur radio on behalf of their employer ? Failing
3 that, exactly which of the four items of 47CFR1.925(3)(ii) {"**inequitable**
4 **application," or "unduly burdensome," or "contrary to the public interest" or "no reasonable**
5 **alternative"**} thwarted the "public interest" if these employees could not,
6 personally and directly, use Amateur radio on behalf of their employer ?
7

8 Delegated authority's approval of the above waivers is procedurally flawed and
9 violates the statutory construction of Title 47 of the Code of Federal
10 Regulations. The waiver process is not a medium for fixing poor management or
11 stroking some Amateur's ego.
12

13 I am submitting this as an **Application for review of action taken pursuant to**
14 **delegated authority**. Additionally, by this submission, I am also seeking a
15 **Protective Order** halting further waivers until the Commission can properly
16 resolve this matter.
17

18 Respectfully,
19
20

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26
27
28